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FEDERAL ELECTION COMMISSION

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Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

PRE-MUR 436

DATE ACTIVATED: 07/06/06

EPS: 32/TIER: 2

EXPIRATION OF STATUTE OF
LIMITATIONS: 08/20/09

SOURCE:

RESPONDENTS:

Unknown Respondent, also known as the
Unidentified Client of Quest Global Research, Inc.

RELEVANT STATUTE:

2 U.S.C. § 441d

INTERNAL REPORTS CHECKED:

Referral Materials
FEC Disclosure Reports
Dun and Bradstreet

FEDERAL AGENCIES CHECKED:

I. INTRODUCTION

this matter to the Federal

Election Commission to address possible violations of the Federal Election Campaign Act of

1971, as amended (the "Act"), resulting from two telephone polls conducted by Quest Global

Research Group, Inc., in Iowa's 3rd Congressional District in 2004. describes the

polls as alleged "push polls" directed against Stan Thompson, a candidate in the 3rd District

Congressional race. Based on the available information, neither poll included a disclaimer

identifying the entity that paid for the poll or stating whether a candidate authorized the

1 communication. Quest Global Research Group, Inc. admits that it conducted the polls on behalf
2 of one of its clients, but has declined to reveal the identity of that client, absent compulsory
3 process. *See infra* note 3.

4 Based on all of the available information, we recommend that the Commission find
5 reason to believe that an unknown respondent, also known as the unidentified client of Quest
6 Global Research, Inc., violated 2 U.S.C. § 441d by failing to include disclaimers in polls
7 conducted via a telephone bank. In addition, we recommend that the Commission authorize an
8 investigation to determine the identity of the Quest client that paid for the polls, and information
9 sufficient to establish that the polls constitute "telephone banks."

10 **II. DISCUSSION**

11 **A. Factual Background**

12 Quest Global Research Group, Inc. (hereinafter "Quest"), is a Toronto-based Canadian
13 corporation that conducts market research, including political polling, on behalf of clients
14 throughout the United States. In August 2004, Quest conducted a political poll of residents in
15 Iowa's 3rd Congressional District at the request of one of its clients. According to several
16 individuals who received calls in connection with this poll, the callers were first asked "typical
17 political questions," including which candidate they would be voting for in the 3rd District
18 Congressional race.⁷ When call recipients stated that they would vote for the Republican
19 candidate, lawyer Stan Thompson, they were asked whether they would be "less likely,
20 extremely less likely, or make no difference in their decision" to vote for him if they knew that,

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1 while he campaigned against "big tobacco . . . [he] worked for a law firm that represents tobacco
2 companies, . . . that he (or his firm) represented companies that outsource jobs to other countries,
3 costing American workers their jobs, . . . [or] that his firm represents large companies who have
4 damaged the environment?" *Not a Happy Stan*, NATIONAL JOURNAL'S HOUSE RACE HOTLINE,
5 August 26, 2004. The caller also asked whether these individuals would still support Thompson
6 if they knew that he represented drunk drivers.

7 Two months later, in October 2004, Quest coordinated a second poll in Iowa's 3rd
8 Congressional District on behalf of the same client. The unidentified client provided Quest with
9 a script for the poll (Attachment 1), and Quest subcontracted with Dimark Research Inc., a
10 market research firm based in Manitoba, Canada, to make the telephone calls.⁷ As with the
11 August poll, call recipients were asked a number of general political questions, including how
12 likely they were to vote, whether they thought the state was "moving in the right direction or the
13 wrong direction," and whether they were more likely to vote for the Democratic or Republican
14 candidate in the Presidential and the Congressional races. According to the poll script, call
15 recipients were then asked the following question:

16 Next, I am going to read you some statements about congressional
17 candidate Stan Thompson and get your reaction. After each statement,
18 please tell me if it makes you much less likely to support Thompson,
19 somewhat less likely to support him, or if it makes no difference in how
20 you would vote. Stan Thompson opposes additional spending in
21 Afganistan [sic] that will help in the hunt and capture of Osama Bin Laden
22 and the fight against terrorism.
23

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1 Attachment 1 at 3.⁴

2 **B. Legal Analysis**

3 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires that a
4 political committee making a disbursement for a communication through any type of general
5 public political advertising, including telephone banks,⁵ provide a disclaimer in that
6 communication identifying the committee that paid for the communication and whether the
7 communication was authorized by any candidate. 2 U.S.C. § 441d(a), 11 C.F.R. § 110.11(a). A
8 "telephone bank" is defined as "more than 500 telephone calls of an identical or substantially
9 similar nature within any 30-day period." 2 U.S.C. § 431(24), 11 C.F.R. § 100.28. Therefore, if
10 a political committee paid for the telephone polls, and the polls were telephone banks, as defined
11 by 2 U.S.C. § 431(24), the political committee that paid for the polls would have been required
12 to include disclaimers.⁶ See 2 U.S.C. § 441d.

13 The available information does not establish who paid for the telephone polls. However,
14 we do know that the individual or entity is a client of Quest and that there is a possibility that this

⁴ While the introductory language for this question states that it will seek voter reaction to "some statements," the statement about Afghanistan is the only one included in the poll script.

⁵ "Public communication" is defined at 2 U.S.C. § 431(22) as "communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising." See also, 11 C.F.R. § 100.26. The Explanation and Justification published with the disclaimer regulations states that "each form of communication specifically listed in the definition of 'public communication' must be a form of 'general public political advertising.'" 67 Fed. Reg. 76962, 76963 (December 13, 2002). Thus, telephone banks to the general public are included in the definition of general public political advertising.

⁶ If the client that paid for the polls was not a political committee, we do not intend to pursue this matter because telephone banks paid for by individuals, or entities that do not qualify as a political committee, only require disclaimers if the communications include solicitations or express advocacy. 2 U.S.C. § 441d(a). The actual script used in the October poll indicates that there were no solicitations or express advocacy contained in the poll. The available information suggests that there were no solicitations or express advocacy in the August poll either, but we intend to request the actual script from the August poll during our investigation in order to confirm this.

Furthermore, at this time we have no information to suggest that Quest or Dimark Research, Inc. had any involvement in funding the polls. If we discover information during the investigation that suggests a basis for liability on the part of Quest or Dimark Research, Inc., we will make additional recommendations to the Commission, as appropriate.

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1 client is a political committee, since such entities are very likely to have an interest in the 3rd
2 District Congressional race. In addition, it would require only limited resources to obtain the
3 identity of the entity or individual that paid for the polls, since Quest's owners have indicated
4 that they would provide the information if compelled to do so. *See supra* note 3.

5 Nor do we know whether the polls consisted of more than 500 calls or were made within
6 a thirty-day period. However, it seems likely that each poll consisted of more than 500 calls,
7 since it appears that the polls were conducted throughout the 3rd Congressional District, which
8 consists of 12 counties and includes the state's largest city, Des Moines. Furthermore, the
9 individuals who contacted Thompson's campaign regarding the August poll, all did so over a
10 three-day period, *see supra* note 2, which suggests that the telephone calls made in connection
11 with the poll were made over a concentrated period of time. And the notation of "Oct. 21-25
12 2004" at the top of the script for the October poll suggests that the poll was conducted during this
13 five-day time period. Attachment 1 at 1.

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15
16 _____ Based on the foregoing, we recommend that the Commission find reason to
17 believe that an unknown respondent, also known as the unidentified Quest client, violated
18 2 U.S.C. § 441d _____

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15 **IV. RECOMMENDATIONS**

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1. Open a MUR.

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2. Find reason to believe that an unknown respondent, also known as the unidentified client of Quest Global Research, Inc., violated 2 U.S.C. § 441d.

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3. Approve the attached Factual and Legal Analysis.

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23

4. Authorize the use of compulsory process.


5. Approve the appropriate letter.


Lawrence H. Norton
General Counsel

Date

9/29/06

BY:


Rhonda J. Vosdingh
Associate General Counsel for Enforcement


Kathleen M. Guith
Acting Assistant General Counsel


Beth N. Mizuno
Attorney

Attachment:

(1) October 2004 Telephone Polling Script

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IA CD-3 TRACK ONE 2004

Oct. 21-25 2004

N-600

240183

(4) Respondent Code
 (5-8) Date MM/YY
 (9-18) Phone Number

READ: Hello, my name is _____ calling on behalf of Quest Research. We are conducting an opinion poll on politics and government in Iowa, and this number was selected at random. I assure you that your opinions are completely confidential and this is not a sales call.

(19)
 A Are you registered to vote at this address in Iowa?

Yes _____ ☐
 No _____ ☐ Terminate
 Don't Know _____ ☐ Terminate

[RESPONDENT MUST BE 18 YEARS OLD AND REGISTERED TO VOTE AT THIS ADDRESS. IF NOT, ASK FOR A FAMILY MEMBER WHO IS. IF NONE, TERMINATE.]

(20)
 B On November 2nd, there will be elections in Iowa for offices like President, U.S. Senate and Congress. As things stand now, how likely is it that you will vote in 2004's general election - very likely, somewhat likely, not too likely, or not likely at all?

Very Likely _____ ☐
 Somewhat Likely _____ ☐
 Not Too Likely _____ ☐ Terminate
 Not Likely At All _____ ☐ Terminate
 (YOU) Don't Know _____ ☐ Terminate

[RESPONDENT MUST BE VERY LIKELY OR SOMEWHAT LIKELY TO VOTE IN THE GENERAL ELECTION. IF NOT, TERMINATE.]

(21)
 Q1 In general, do you think things in your part of Iowa are moving in the right direction or the wrong direction?

Right Direction _____ ☐ 1
 Wrong Direction _____ ☐ 2
 Mixed _____ ☐ 3
 (YOU) Don't Know _____ ☐ 4

(22)
 Q2 Generally speaking, when thinking about elections for U.S. Congress, are you more likely to vote for a [ROTATE] Democratic candidate or a Republican candidate?

Attachment 1 of 4
 Page 1 of 4
 More Likely Democrat _____ ☐ 1
 More Likely Republican _____ ☐ 2
 (YOU) Depends _____ ☐ 3
 (YOU) Neither _____ ☐ 4
 (YOU) Don't Know _____ ☐ 5

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(23)
Q3

Now, I'd like to ask your impressions of some people active in politics. As I read each one, just tell me whether you have a very favorable opinion of that person, a somewhat favorable opinion, a somewhat unfavorable opinion, or a very unfavorable opinion. If you don't recognize them, just say so. Here is the first one....

	Very Fav	Fav	Somewhat Fav	Somewhat Unfav	Very Unfav	Don't Know	Don't Know
Leonard Boswell	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6	

(24)

Stan Thompson	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
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(25)
Q4

How would you rate the job that Leonard Boswell is doing as a U.S. Congressman - excellent, good, not so good, or poor?

Excellent	<input type="checkbox"/> 1
Good	<input type="checkbox"/> 2
Not So Good	<input type="checkbox"/> 3
Poor	<input type="checkbox"/> 4
[vol] Don't Know	<input type="checkbox"/> 5

(26)
Q5

If the November election for President were held today, for whom would you vote - [ROTATE] George W. Bush, a Republican, or John Kerry, a Democrat?

George W. Bush	<input type="checkbox"/> 1
John Kerry	<input type="checkbox"/> 2
[vol] Undecided	<input type="checkbox"/> 3

(27)
Q6

If the November election for U.S. Congress were held today, for whom would you vote - [ROTATE] Leonard Boswell, a Democrat, or Stan Thompson, a Republican?

[IF UNDECIDED, ASK:] "Well, which one would you lean towards at this time?"

Leonard Boswell GO TO Q7	<input type="checkbox"/> 1
Stan Thompson GO TO Q7	<input type="checkbox"/> 2
[vol] Undecided GO TO Q8	<input type="checkbox"/> 3

FOR THOSE WHO HAVE A CHOICE IN Q6

(28)
Q7

Would you say that you are almost certain to vote for [choice in Q6] or do you think you still might change your mind and vote for his opponent?

Almost certain	<input type="checkbox"/> 1
Might still change mind	<input type="checkbox"/> 2
[vol] Not sure/undecided	<input type="checkbox"/> 3

Attachment

Page

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of

4

READ TO ALL RESPONDENT

(29)
Q8 Who do you believe will do a better job on the following issues - Leonard Boswell or Stan Thompson?

	<u>Boswell</u>	<u>Thompson</u>	<u>Both/Neither</u>	<u>Don't Know</u>
Improving education	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Keeping America safe	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Representing your values	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Jobs and the economy	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4
Reforming healthcare	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4

(30)
Q9 Next, I am going to read you some statements about congressional candidate Stan Thompson and get your reaction. After each statement, please tell me if it makes you much less likely to support Thompson, somewhat less likely to support him, or if it makes no difference in how you would vote.

Here is the first one.

	<u>Much Less Likely</u>	<u>Somewhat Less Likely</u>	<u>No Diff</u>	<u>Don't Know</u>
Stan Thompson opposes additional spending in Afghanistan that will help in the hunt and capture of Osama Bin Laden and the fight against terrorism.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4

READ: NOW, JUST A FEW QUESTIONS FOR CLASSIFICATION PURPOSES.

(31)
Q10 Sex _____

Male _____ ☐ 1

Female _____ ☐ 2

(32)
Q11 Could you please tell me - is you age between 18-29, 30-39, 40-49, 50-64 or over 65?

18-29 _____ ☐ 1

30-39 _____ ☐ 2

40-49 _____ ☐ 3

50-64 _____ ☐ 4

Over 65 _____ ☐ 5

(VOL) Don't Know / Refused _____ ☐ 6

(37)
Q12 Are you or is anyone in your household a member of a labor union or organized group of workers?

Yes _____ ☐ 1

No _____ ☐ 2

(VOL) Don't Know / Refused _____ ☐ 3

Attachment _____

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(38)
Q13

Do you consider yourself a Democrat, a Republican, or an Independent?
[IF INDEPENDENT, ASK:] Do you lean more towards the Democrats or the Republicans?

Democrat	Q1
Indep/Lean Democrat	Q2
Republican	Q3
Indep/Lean Republican	Q4
Independent	Q5
(YOU) Don't Know / Refused / Other	Q6

(39)
Q14

Which of the following categories best describes your total family income:

Under \$30,000	Q1
\$30,000 to \$50,000	Q2
\$50,000 to \$75,000	Q3
Over \$75,000	Q4
(YOU) Don't Know / Refused	Q5

(40-41)
Q15

County

Benton	Q1
Grundy	Q2
Iowa	Q3
Jasper	Q4
Koolick	Q5
Lucas	Q6
Mahaska	Q7
Marion	Q8
Monroe	Q9
Polt	Q10
Poweshiek	Q11
Tama	Q12

Attachment

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